

**APPROVED
REGULAR COUNCIL MEETING
January 27, 2009
6:30 PM**

Mayor Dion Avello presiding.

ROLL CALL:

WARD I
WARD II
WARD III
WARD IV

COUNCIL MEMBERS PRESENT:

Jim Meidinger
Vaughn Nun, Heath Horyna
Chuck Warren, Cheryl Bannon
Mark Staats, George Arnold

COUNCIL MEMBERS ABSENT

WARD I

Jim Craig

Flag salute was led by Council President George Arnold.

The invocation was led by Pastor Greg Branvold, Cross of Glory Church.

**CONSIDERATION OF
MINUTES**

Minutes of the January 13, 2009, Regular Council Meeting.

MOTION: Arnold moved to approve minutes of January 13, 2009 Regular Council Meeting. Meidinger seconded.

VOTE: Motion carried 7-0, Craig absent.

PUBLIC FORUM

Brad Beets, Derby Community Coalition Promoting Healthy Choices advised that After Prom 2009 will be held on April 18th at 11:45 p.m. and going until 4:00 a.m. on April 19th. This is the second year the Derby Community Coalition has hosted this event for USD 260 and each year we have had over 450 Derby High School students enjoy the events and activities at All Star Adventures. We are beginning our campaign to gain support from our community to make this event possible for our youth in the community. This event costs \$6,000 each year, about \$16.00 per youth and we have a \$1,600 deposit that is due next week that we are working on right now to secure funding for. Our goal is to underwrite the cost so that our youth only pay \$5-7 to attend the event. This provides a fun, safe environment in the middle of the night after prom when some other things happen sometimes after proms around the country. There is a mailer that is going to be going out to the community in the next week, we need help with underwriting costs, prizes to give away and volunteers that night to help chaperone. If you are interested in helping you can communicate that through the form provided or call the Derby High School or the numbers listed on the form. After prom is a positive opportunity for our youth to have something to do after prom versus some of the things that can happen, after prom.

Kathy Sexton advised today at noon was the deadline for people to file for council seats.

Jean Epperson, City Clerk advised the following people have filed to run for office: Dan Billman, Jim Craig and Jerry Lucas for Ward I, Vaughn Nun for Ward II, Chuck Warren Ward III and Thomas Haynes and Shawn Riley for Ward IV. No primary will be necessary.

Council Member Warren stated last year the city council passed a comprehensive smoking ordinance and one of the things that came out of that was a number of people that said if we passed this ordinance people would support those businesses when they went smoke free. His purpose tonight is to encourage people that if that was a pledge that you made that you follow through. He has talked with some of the owners of businesses that had formerly allowed smoking and are now non smoking and they are not getting the business. They are seeing, in some cases some pretty significant drop offs. These are businesses that have been around for a long time in our community and he would encourage the community to try to support them the best they can so that as other cities go to look at a comprehensive ordinance there can be a positive that the communities did in fact support the businesses when that happened.

Mayor Avello announced that Council Member Craig's mother-in-law passed away this evening, out thoughts and prayers are with Jim and his wife Suzanne.

PRESENTATIONS

Brad Smith, Fire Chief presented Firefighter of the Year to Mark Jacobs. Mark started on the Derby Volunteer Fire Department in 1980. He has been very active and involved with the fire department. In 1990 he became a Lieutenant and has assisted in training and responded to fires. He also serves as the department safety officer.

Dallas Love, Derby VFW also presented a certificate recognizing Mark as the VFW firefighter of the year.

Mark Jacobs accepted the award and thanked all the firefighters present as well as his family. It has been a privilege to serve this community and an honor to serve with some of the finest men he has ever know.

Kathy Sexton thanked all the firefighters in the room. Not only did they make an effort to come here tonight, many of them have been working all day long, volunteering most of them, because we have had a number of accidents on the icy streets today and our volunteer force was most helpful in helping us work those accidents and they probably have a few more to go to tonight. We appreciate them all being here and helping.

Dan Billman, Vice President of the Derby Baseball Association spoke about being a recipient of an ACE Grant last year. Those funds were used to purchase portable pitching mounds for the league. It was a successful year for their first year as the Derby Baseball Association, in years past they were a primarily Derby league. Last year they expanded and opened up to surrounding communities. In 2007 there were 150 kids with 13 teams and last year there were 238 kids and 21 teams. One of the focuses of the league was to keep Derby kids in Derby utilizing our athletic and youth programs. We also had teams from Mulvane, Clearwater, Haysville, Andover and Rose Hill with baseball being played 6 days of the week. We brought a lot of people to the city during that time. We also held three tournaments last year, the first tournament averaged around

150 players and coaches over a weekend using City of Derby restaurants, gas stations, etc. Those that attended raved about our baseball facilities; they were top notch compared to other places they had played. We are expanding our league again this year by adding another age group and will be purchasing additional pitching mounds this year. We are very grateful; the kids were very grateful and got a lot of use out of the pitching mounds.

Kathy Sexton added that the Kansas Recreation and Parks Association is meeting for their annual meeting in Hutchinson this week and our own Frank Seitz is receiving an award. Robert Mendoza and Darrel Zimmerman are there to be a part of that. If you know anything about parks and rec in Kansas you know that Frank is the history and the current and the place to be. He goes all over the state helping other small communities get started because the Derby Recreation Commission has such a great history. We are really proud of Frank and proud of the community for their investment in parks and recreation.

Mayor Avello stated there is something else to be said about Mr. Seitz for what he has done with the rec center in Oaklawn. That is a tremendous undertaking and the building is going up and will do wonders for that community also. He does very good work around the state.

Council Member Bannon stated that she was told by an employee at the DRC that without being dead or retired it is the highest award you can receive in the State of Kansas.

2009 REVISED LEGISLATIVE AGENDA

Stephanie Knebel, Assistant City Manager presented the staff report.

Background:

- On January 13, the City Council adopted the 2009 Legislative Agenda. That same day, Governor Sebelius released her revised 2009 and recommended 2010 budgets.
- Initial analysis from the League of Kansas Municipalities was received on January 14.
- Because the Governor's recommended budgets eliminate several funding sources that affect the City of Derby, it is important to understand their impact as the 2009 legislative session gears up.
- Revisions to the City's Legislative Agenda on page 3 are recommended to shift our priority from restoring the LAVTR program to restoring all proposed cuts.

Financial/Sustainability Considerations:

- The affected revenue reductions proposed by the Governor are:
 1. Special City-County Highway Funds (\$120,000 in 2009)
 2. Liquor Tax (\$100,000 in 2009)
 3. Property tax on Machinery and Equipment (\$50,000 in 2009, \$35,000 in 2010)
 4. Local Ad Valorem Tax Reduction Fund (up to \$385,000/year)
- Restoration of any one of these programs would have a positive effect on city revenues.

- Staff will continue to monitor legislative activities and keep the City Council apprised of actions needed.

Legal Considerations:

- None

Policy Considerations:

- Adopting a legislative agenda sets the priorities that the City of Derby would like our legislators to focus on during the 2009 session.
- Adopting a legislative agenda further strengthens communication between the City of Derby and our legislative delegation.

DISCUSSION:

Council Member Warren commented that there is no doubt that the state is in trouble and grabbing for straws but he thinks it is extremely unfair to be putting so much of that burden back on the cities. They are just redistributing the tax and are going to force cities to raise taxes and come up with something someplace else. He asked if it is enough to have our lobbyist's and our organization fighting this battle. It seems like the squeaky wheel is the one that gets greased, is there something else we can be doing to become a squeakier wheel?

Ms. Knebel advised we partner with organizations REAP and Visioneering and they have lobbyists and representatives in Topeka as well. They understand issues that are going on with local governments so we are able to use those resources as well.

Ms. Sexton suggested to everyone who is watching this meeting who lives in Derby, or anybody else for that matter, if they can contact their own state representative. In Derby their representative is Don Myers, or their state senator, for most of Derby that is Sen. Dick Kelsey or Sen. Mike Pederson. We have meetings scheduled with all three of those gentlemen tomorrow but any regular person can contact their representative. The message Mr. Warren indicated is quite easy to relay, don't put so much of the burden on city governments because that is shifting taxes as opposed to taking responsibility for the state's burden.

Council Member Warren encouraged council members and citizens in that they need to understand that we do not agree. This is not a fair and right way to handle their situation. They need to cut more and that's not going to be an easy thing for them to do. If they put it back on the cities then we are just shifting where the tax is coming from and that's not right.

Council Member Bannon stated that at the last council meeting she discussed the governor's budget cuts and that we didn't know what all it would entail and how it would impact us. We are getting a little better feel for that now and the state should not put that tax burden on us or tax payers. Whether we are in agreement or not this is just the first volley, they have already indicated that tax cuts will be more severe and deep in the 2010 budget. We need to be more

prudent with our spending. She is not saying to stop because we are a growing community but it almost seemed like at the last meeting when she and at least one other mentioned that we need to pay attention to the current economy. We have to keep the current economy in mind, it's not just what we can control, this is out of our hands, if the state is going to do it there is not a lot we can do to stop it. One of the best things is to contact your local state representatives and she encouraged everyone to call Representative Meyers, email his office, talk to your other legislators and see what we can do. We can't stop it but we have to play within the money we have and look towards the future.

Mayor Avello advised that REAP is probably the best way to go through this, with nine counties. He knows they all feel the same and REAP is now beginning to have a lot of weight up there and he thinks that is the way we are going to have to do this.

MOTION: Horyna moved to approve the revised 2009 Legislative Agenda. Arnold seconded.

VOTE: Motion carried 7-0, Craig absent.

UPDATE COUNCIL PRIORITY LIST

Kathy Sexton, City Manager presented the staff report.

Background:

- On September 9, 2008, the Council last updated its priority list.
- Today, an updated priority list is provided for Council consideration. Five new projects have been added to the list since September, including:
 - Ordinance for Council monthly \$100 stipend
 - K-15 frontage road traffic management
 - Ordinance to restrict truck traffic on residential streets
 - Update wards based on population (instead of registered voters)
 - Review vicious animal ordinance & implementation thereof
- One project, updating the fireworks ordinance, was completed since September and removed from the list.
- Work is underway on many of the 23 priorities on the city list, as well as the 3 priorities on the Water Company's list.

Financial Considerations:

- None at this time. Implementation of the priorities will necessarily involve staff time and various expenses that will be determined at a future date and budgeted for as appropriate.

Legal Considerations:

- None.

Policy Considerations:

- It is important for a governing body to agree on a set of priorities to guide the productive use of staff time. The list does not represent everything the Council has directed staff to

accomplish, rather it includes projects and programs to enhance the city to be worked on as time allows amid other routine responsibilities.

City Council Priorities for the City
Manager of 1/27/09

- 1 *Develop a marketing plan for the community*
- 2 *Recycling & trash franchising initiatives*
- 3 **Ordinance for Council monthly \$100 stipend**
- 4 *Update nuisance ordinances (signs)*
- 5 *Notification of future special assessments*
- 6 *Develop and implement a performance measurement system for City services*
- 7 *Equity Buy-in fee for sewer*
- 8 *Public Works relocation*
- 9 ***K-15 Frontage Road traffic management***
- 10 Update subdivision regulations re: park in-lieu-of fees
- 11 *Develop land acquisition plan*
- 12 ***Ordinance to restrict truck traffic on residential streets***
- 13 ***Update wards based on population (instead of registered voters)***
- 14 **Review Vicious Animal Ordinance & Implementation**
- 15 *Noise Ordinance*
- 16 Unilateral Annexations
- 17 Update turnpike signage
- 18 *Alcohol for special events at High Park, DRC, & new Library community room*
- 19 "Green" initiatives: alternative fuel for city vehicles; educational messages
- 20 BZA process update
- 21 Work to obtain All-America City status
- 22 Comprehensive Plan - Implementation Actions
- 23 Plan for services to seniors

Italics = Working on

Bold = New since Sept. 2008

Water Company Board Priorities for the
President as of Jan. 27, 2009

- A *Marketing of water assets*
- B *Equity buy-in fee for water*
- C *Implement 360 Performance measurement*

DISCUSSION:

Council Member Bannon asked how item #3 got to be item #3.

Ms. Sexton explained she was going on what is realistic to get done, what is in process of getting done and the passion with which she heard council members talking at the last retreat or otherwise. That is the ordinance for council monthly stipends. What she heard at the retreat was a desire to get it on the agenda so we can talk about it in public and let's get a decision made. Specifically, that was discussed as a way of getting it done before the upcoming election, which would be April 7th so that people on the council now who don't have a dog in the fight so to speak, and people who are running now would not be strapped with something like that as one of their early votes. That is why it was put high on the list. She doesn't think it will take a lot of staff time to develop the ordinance but that is her understanding that that is something the council wanted us to bring to you pretty quickly. Other things high on the list, the marketing plan is in process and almost done and planned for the inter-governmental agenda on March 30th for presentation and completion of the plan so that should be done this quarter. Recycling and trash franchising initiative, as you know is in process. We sent out our RFP on that yesterday and those proposals are due March 2nd so that is in process of getting done. Everything in italics is in process of being worked. The nuisance ordinance is something that our planning folks will get to as soon as they get done with item #5, which is future special assessments and they are working pretty hard right now with the Buckner Street project. She told them not to work on the signs until they got the Buckner thing done. The equity buy in fee for sewer is high on our radar screen, February 17th we have a sewer rate workshop planned and that item will be talked about at that workshop. A long way of saying a lot of those things at the very top are things we are doing now and are planning to have done within the three months before she comes back to the council.

Council Member Bannon stated she is not for compensation, and no one on the board is surprised at that. She was a little dismayed that we would put that above some safety items, the K-15 frontage and the truck traffic restrictions on residential streets.

Council Member Meidinger agreed that #3 is a real hot item right now because we just got through discussing the lack of funding that we are going to be getting from the state and then we put \$9,600 back into the budget. In fact, that would be an unfunded budget item because we didn't budget for it. He has always had this concern with the United States Congress when they vote themselves raises; he thinks that's a conflict of interest. The same would hold true here, to him this is a very great example of a conflict of interest where council members are going to vote themselves a pay raise or stipend. What he would like to see us do is not argue among ourselves about how this is going to work. He would like to see it put on the April ballot, let the people of Derby decide if they want to pay the councilmen and go from there at that point.

Council Member Warren suggested making item #3 an agenda item for the next council meeting and have something that we could discuss. His personal feeling is that we make monetary decisions constantly that we don't go to the public and ask them to vote on. This is definitely going to be a tough one and we are going to get criticized by some from that. He doesn't really want to get into all the details on that. It's not an agenda item tonight so his preference would be not to debate all of the aspects of it but let's bring it up and discuss all the pros and cons, let's vote on it and get it off of our list real quick. He asked if we could have that as an agenda item for the next meeting.

Ms. Sexton advised they could. It won't take much staff time; it's just Phil writing an ordinance.

Mayor Avello asked if Mr. Warren wanted it as an action item or an item for discussion.

Council Member Warren advised he wanted it as an item for discussion.

Council Member Meidinger commented on item #12, he thinks we need to start looking at truck parking in Derby as a whole. When people drive down our streets and look at various parking lots and see 2-4 trucks parked there overnight, over the weekends, that's not a real good image, especially for those people who live near those areas. Most of them are the reefer type trucks but he has seen cattle trucks parked there. He thinks we should look at restricting overnight truck parking.

Ms. Sexton asked if he was talking about residential areas or industrial.

Council Member Meidinger advised he was talking about private parking lots, Dillon's for example. We have an industrial park maybe that could be utilized.

MOTION: Warren moved to approve the Council's updated list of priorities. Nun seconded.

VOTE: Motion carried 6-1, Meidinger nay, Craig absent.

Mayor Avello indicated he thought we were going to have an executive session to continue discussion from the last meeting.

Ms. Sexton asked if he wanted to have another executive session today.

Mayor Avello advised he thought that was what they were going to do but if we are not prepared for that its fine.

Ms. Sexton indicated she was not prepared for that.

ADJOURNMENT

MOTION: Warren moved to adjourn at 7:16 p.m. Meidinger seconded.

VOTE: Motion carried 7-0, Craig absent.

ATTEST:

Dion P. Avello, Mayor

Jean Epperson, City Clerk